

1970

c 85 The Labour Relations Amendment Act, 1970 (No. 2).

Ontario

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The Labour Relations Amendment Act, 1970 (No. 2)., SO 1970, c 85

Repository Citation

Ontario (1970) "c 85 The Labour Relations Amendment Act, 1970 (No. 2).," *Ontario: Annual Statutes*: Vol. 1970, Article 87.

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CHAPTER 85

An Act to amend The Labour Relations Act

Assented to November 13th, 1970
Session Prorogued November 13th, 1970

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act* is amended by adding thereto the following preamble: R.S.O. 1960,
c. 202,
amended

WHEREAS it is in the public interest of the Province of Ontario to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining between employers and trade unions as the freely designated representatives of employees.

2.—(1) Subsection 1 of section 1 of *The Labour Relations Act* is amended by relettering clause *a* as clause *aa* and by adding thereto the following clause: R.S.O. 1960,
c. 202,
s. 1, subs. 1,
amended

(a) "accredited employers' organization" means an organization of employers that is accredited under this Act as the bargaining agent for a unit of employers.

(2) Clause *f* of subsection 1 of the said section 1 is amended by adding at the end thereof "and includes an accredited employers' organization", so that the clause shall read as follows: R.S.O. 1960,
c. 202,
s. 1, subs. 1,
cl. *f*,
amended

(f) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees and includes an accredited employers' organization.

(3) Subsection 1 of the said section 1 is further amended by adding thereto the following clause: R.S.O. 1960,
c. 202, s. 1,
subs. 1,
amended

(*ha*) "professional engineer" means an employee who is a member of the engineering profession entitled to practise in Ontario and employed in a professional capacity.

R.S.O. 1960,
c. 202,
s. 1, subs. 3,
amended

- (4) Subsection 3 of the said section 1, as amended by subsection 2 of section 1 of *The Labour Relations Amendment Act, 1961-62*, is further amended by inserting at the commencement thereof "Subject to section 65a", so that the subsection, exclusive of the clauses, shall read as follows:

Idem

- (3) Subject to section 65a, for the purposes of this Act no person shall be deemed to be an employee,

.

R.S.O. 1960,
c. 202, s. 1,
subs. 3, cl. a,
amended

- (5) Clause a of subsection 3 of the said section 1, as amended by subsection 2 of section 1 of *The Labour Relations Amendment Act, 1961-62*, is further amended by striking out "engineering" in the first and second lines, so that the clause shall read as follows:

- (a) who is a member of the architectural, dental, land surveying, legal or medical profession entitled to practise in Ontario and employed in a professional capacity; or

.

R.S.O. 1960,
c. 202, s. 1,
amended

- (6) The said section 1 is amended by adding thereto the following subsection:

Idem

- (4) Where, in the opinion of the Board, associated or related activities or businesses are carried on by or through more than one corporation, individual, firm, syndicate or association, or any combination thereof, under common control or direction, the Board may treat the corporations, individuals, firms, syndicates or associations or any combination thereof as constituting one employer for the purposes of this Act.

R.S.O. 1960,
c. 202, s. 5,
amended

3. Section 5 of *The Labour Relations Act*, as amended by section 2 of *The Labour Relations Amendment Act, 1966*, is further amended by adding thereto the following subsection:

Idem

- (1b) Where an employer and a trade union agree that the employer recognizes the trade union as the exclusive bargaining agent of the employees in a defined bargaining unit and the agreement is in writing signed by the parties and the parties have not entered into a collective agreement and the Board has not made a declaration under section 45a, another trade union may, subject to section 46, apply to the Board for certification as bargaining agent of any of the employees in the bargaining unit

defined

defined in the recognition agreement only after the expiration of one year from the date that the recognition agreement was entered into.

4.—(1) Subsection 2 of section 6 of *The Labour Relations Act* is amended by adding at the end thereof "or where the group of employees is exercising a combination of technical skills or is required to perform the skills in whole or in part of more than one craft as part of a work crew or team, the other members of which are also required to perform in similar fashion", so that the subsection shall read as follows:

R.S.O. 1960,
c. 202, s. 6,
subs. 2,
amended

- (2) Any group of employees who exercise technical skills or who are members of a craft by reason of which they are distinguishable from the other employees and commonly bargain separately and apart from other employees through a trade union that according to established trade union practice pertains to such skills or craft shall be deemed by the Board to be a unit appropriate for collective bargaining if the application is made by a trade union pertaining to such skills or craft, and the Board may include in such unit persons who according to established trade union practice are commonly associated in their work and bargaining with such group, but the Board shall not be required to apply this subsection where the group of employees is included in a bargaining unit represented by another bargaining agent at the time the application is made, or where the group of employees is exercising a combination of technical skills or is required to perform the skills in whole or in part of more than one craft as part of a work crew or team, the other members of which are also required to perform in similar fashion.

Craft units

(2) The said section 6 is amended by adding thereto the following subsection:

R.S.O. 1960,
c. 202, s. 6,
amended

- (3) A bargaining unit consisting solely of professional engineers shall be deemed by the Board to be a unit of employees appropriate for collective bargaining, but, the Board may include professional engineers in a bargaining unit with other employees if the Board is satisfied that a majority of such professional engineers wish to be included in such bargaining unit.

Unit of
professional
engineers

5.—(1) Subsection 2 of section 7 of *The Labour Relations Act* is amended by striking out "45" in the first line and inserting in lieu thereof "35", and by striking out "55" in

R.S.O. 1960,
c. 202, s. 7,
subs. 2,
amended

the second line and in the fourth line and inserting in lieu thereof in each instance "65", so that the subsection shall read as follows:

Representa-
tion vote

- (2) If the Board is satisfied that not less than 35 per cent and not more than 65 per cent of the employees in the bargaining unit are members of the trade union, the Board shall, and if the Board is satisfied that more than 65 per cent of such employees are members of the trade union, the Board may, direct that a representation vote be taken.

R.S.O. 1960,
c. 202, s. 7,
subs. 3,
re-enacted,
subs. 4,
repealed

- (2) Subsections 3 and 4 of the said section 7 are repealed and the following substituted therefor:

Certification
after vote

- (3) If on the taking of a representation vote more than 50 per cent of the ballots cast are cast in favour of the trade union, and in other cases, if the Board is satisfied that more than 65 per cent of the employees in the bargaining unit are members of the trade union, the Board shall certify the trade union as the bargaining agent of the employees in the bargaining unit.

Application
of section

- (3) This section does not apply in respect of applications for certification made before this section comes into force.

R.S.O. 1960,
c. 202, s. 8,
subs. 2,
amended

- 6.—**(1) Subsection 2 of section 8 of *The Labour Relations Act* is amended by striking out "45" in the fourth line and inserting in lieu thereof "35", so that the subsection shall read as follows:

Voting
constituency

- (2) Upon such a request being made, the Board may determine a voting constituency and, if it appears to the Board on an examination of the records of the trade union and the records of the employer that not less than 35 per cent of the employees in the voting constituency were members of the trade union at the time the application was made, the Board may direct that a representation vote be taken among the employees in the voting constituency.

R.S.O. 1960,
c. 202, s. 8,
subs. 4,
amended

- (2) Subsection 4 of the said section 8 is amended by striking out "45" in the fourth line and inserting in lieu thereof "35", so that the subsection shall read as follows:

Effect of
pre-hearing
vote

- (4) After a representation vote has been taken under subsection 2, the Board shall determine the unit of employees that is appropriate for collective bargaining and, if it is satisfied that not less than 35

per cent of the employees in such bargaining unit were members of the trade union at the time the application was made, the representation vote taken under subsection 2 has the same effect as a representation vote taken under subsection 2 of section 7.

(3) This section does not apply in respect of applications for certification made before this section comes into force. Application of section

7. *The Labour Relations Act* is amended by adding thereto the following section: R.S.O. 1960, c. 202, amended

8b. Where employees of an employer reside on the property of the employer, or on property to which the employer has the right to control access, the employer shall, upon a direction from the Board, allow the representative of a trade union access to the property on which the employees reside for the purpose of attempting to persuade the employees to join a trade union. Right of access

8. Section 9 of *The Labour Relations Act* is repealed and the following substituted therefor: R.S.O. 1960, c. 202, s. 9, re-enacted

9. The Board shall not include in a bargaining unit with other employees a person employed as a guard to protect the property of an employer, and no trade union shall be certified as bargaining agent for a bargaining unit of such guards and no employer or employers' organization shall be required to bargain with a trade union on behalf of any person who is a guard if, in either case, the trade union admits to membership or is chartered by, or is affiliated, directly or indirectly, with an organization that admits to membership persons other than guards. Security guards

9. *The Labour Relations Act* is amended by adding thereto the following section: R.S.O. 1960, c. 202, amended

31a—(1) The Minister may establish an industrial inquiry commission to inquire into and report to the Minister on any industrial matter or dispute that the Minister considers advisable. Industrial inquiry commission

(2) The industrial inquiry commission shall consist of one or more members appointed by the Minister and the commission shall have all the powers of a conciliation board under section 28. Composition and powers

(3) The chairman and members of the commission shall be paid remuneration and expenses at the same rate Remuneration and expenses

as is payable to a chairman and members of a conciliation board under this Act.

R.S.O. 1960,
c. 202, s. 32,
amended

10.—(1) Section 32 of *The Labour Relations Act* is amended by adding thereto the following subsection:

Recognition
of
accredited
employers'
organization

(1a) Every collective agreement to which an accredited employers' organization is a party shall provide that the accredited employers' organization is recognized as the exclusive bargaining agent of the employers in the unit of employers for whom the employers' organization has been accredited.

R.S.O. 1960,
c. 202, s. 32,
subs. 2,
amended

(2) Subsection 2 of the said section 32 is amended by inserting after "1" in the second line "or 1a", so that the subsection shall read as follows:

Addition
by Board

(2) If a collective agreement does not contain such a provision as is mentioned in subsection 1 or 1a, it may be added to the agreement at any time by the Board upon the application of either party.

R.S.O. 1960,
c. 202, s. 33,
subs. 2,
re-enacted

11. Subsection 2 of section 33 of *The Labour Relations Act* is repealed and the following substituted therefor:

Statutory
provision

(2) If a collective agreement does not contain such a provision as is mentioned in subsection 1, it shall be deemed to contain the following provision:

"There shall be no strikes or lock-outs so long as this agreement continues to operate."

R.S.O. 1960,
c. 202, s. 34,
subs. 2,
amended

12.—(1) Subsection 2 of section 34 of *The Labour Relations Act* is amended by adding after "employee" in the twenty-third line "or employer", so that the subsection shall read as follows:

Idem

(2) If a collective agreement does not contain such a provision as is mentioned in subsection 1, it shall be deemed to contain the following provision:

Where a difference arises between the parties relating to the interpretation, application or administration of this agreement, including any question as to whether a matter is arbitrable, or where an allegation is made that this agreement has been violated, either of the parties may, after exhausting any grievance procedure established by this agreement, notify the other party in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of the first party's appointee to an arbitration board. The recipient of the notice shall within five days inform the other party of the name of its appointee to the arbitration board. The two appointees so selected shall, within five days of

the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator, or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister of Labour for Ontario upon the request of either party. The arbitration board shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the parties and upon any employee or employer affected by it. The decision of a majority is the decision of the arbitration board, but if there is no majority the decision of the chairman governs.

(2) The said section 34 is amended by adding thereto the following subsection: R.S.O. 1960,
c. 202, s. 34,
amended

(7a) Where an arbitrator or arbitration board determines that an employee has been discharged or otherwise disciplined by an employer for cause and the collective agreement does not contain a specific penalty for the infraction that is the subject-matter of the arbitration, the arbitrator or arbitration board may substitute such other penalty for the discharge or discipline as to the arbitrator or arbitration board seems just and reasonable in all the circumstances. Substitution
of penalty

(3) Subsection 2 applies to arbitrations commenced after subsection 2 comes into force and to arbitrations commenced before subsection 2 comes into force and in respect of which the arbitrator or arbitration board has heard no evidence, notwithstanding that the collective agreement under which the arbitration was commenced was entered into before subsection 2 comes into force. Application
of subs. 2

13.—(1) Subsection 2 of section 35 of *The Labour Relations Act* is repealed and the following substituted therefor: R.S.O. 1960,
c. 202, s. 35,
subs. 2,
re-enacted

(2) No trade union that is a party to a collective agreement containing a provision mentioned in clause a of subsection 1 shall require the employer to discharge an employee because, Where
non-member
employee
cannot be
required to
be
discharged

(a) he has been expelled or suspended from membership in the trade union; or

(b) membership in the trade union has been denied to or withheld from the employee,

for the reason that the employee,

(c) was or is a member of another trade union;

(d)

- (d) has engaged in activity against the trade union or on behalf of another trade union;
- (e) has engaged in reasonable dissent within the trade union;
- (f) has been discriminated against by the trade union in the application of its membership rules; or
- (g) has refused to pay initiation fees, dues or other assessments to the trade union which are unreasonable.

R.S.O. 1960,
c. 202, s. 35,
subs. 4,
amended

(2) Subsection 4 of the said section 35 is amended by striking out "55" in the sixth line and inserting in lieu thereof "65", so that the subsection, exclusive of the clauses, shall read as follows:

Union
security
provision
in first
agreement

- (4) A trade union and the employer of the employees concerned shall not enter into a collective agreement that includes provisions requiring, as a condition of employment, membership in the trade union that is a party to or is bound by the agreement unless the trade union has established at the time it entered into the agreement that not less than 65 per cent of the employees in the bargaining unit were members of the trade union, but this subsection does not apply,

.

R.S.O. 1960,
c. 202,
amended

14. *The Labour Relations Act* is amended by adding thereto the following section:

Religious
objections

35a—(1) Where the Board is satisfied that an employee because of his religious conviction or belief,

- (a) objects to joining a trade union; or
- (b) objects to the paying of dues or other assessments to a trade union,

the Board may order that the provisions of a collective agreement of the type mentioned in clause a of subsection 1 of section 35 do not apply to such employee and that the employee is not required to join the trade union, to be or continue to be a member of the trade union, or to pay any dues, fees or assessments to the trade union, provided that amounts equal to any initiation fees, dues or other

assessments

assessments are paid by the employee to or are remitted by the employer to a charitable organization mutually agreed upon by the employee and the trade union, but if the employee and the trade union fail to so agree then to such charitable organization registered as a charitable organization in Canada under Part I of the *Income Tax Act* (Canada) as may be designated by the Board.

R.S.C. 1952,
c. 148

(2) Subsection 1 applies,

Application
of subs. 1

- (a) subject to clause *b*, to employees in the employ of an employer at the time a collective agreement containing a provision of the kind mentioned in subsection 1 is first entered into with that employer and only during the life of such collective agreement; and
- (b) where a collective agreement in force when this subsection comes into force contains the provision mentioned in subsection 1, to employees in the employ of the employer at the time this section comes into force and only during the life of such collective agreement,

and does not apply to employees whose employment commences after the entering into of the collective agreement when clause *a* applies, or after this section comes into force, when clause *b* applies.

15. *The Labour Relations Act* is amended by adding thereto the following section:

R.S.O. 1960,
c. 202,
amended

- 36a.** There shall be only one collective agreement at a time between a trade union or council of trade unions and an employer or employers' organization with respect to the employees in the bargaining unit defined in the collective agreement.

More than
one
collective
agreement
prohibited

16.—(1) Subsection 1 of section 38 of *The Labour Relations Act*, as amended by section 3 of *The Labour Relations Amendment Act, 1961-62*, is further amended by inserting after "upon" in the third line "the employers' organization and" and by inserting after "unions" in the third instance in the amendment of 1961-62 "and upon the employees in the bargaining unit defined in the agreement", so that the subsection shall read as follows:

R.S.O. 1960,
c. 202, s. 38,
subs. 1,
amended

Binding
effect of
collective
agreements
on
employers'
organizations

- (1) A collective agreement between an employers' organization and a trade union or council of trade unions is, subject to and for the purposes of this Act, binding upon the employers' organization and each person who was a member of the employers' organization at the time the agreement was entered into and on whose behalf the employers' organization bargained with the trade union or council of trade unions as if it was made between each of such persons and the trade union or council of trade unions and upon the employees in the bargaining unit defined in the agreement and, if any such person ceases to be a member of the employers' organization during the term of operation of the agreement, he shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the trade union or council of trade unions.

R.S.O. 1960,
c. 202, s. 38,
subs. 3,
amended

- (2) Subsection 3 of the said section 38, as amended by subsection 2 of section 12 of *The Labour Relations Amendment Act, 1966*, is further amended by inserting after "upon" in the third line "the council of trade unions and", and by inserting after "organization" in the eighth and ninth lines "and upon the employees in the bargaining unit defined in the agreement", so that the subsection shall read as follows:

Binding
effect of
collective
agreements
on members
or affiliates
of councils
of trade
unions

- (3) A collective agreement between a council of trade unions, other than a certified council of trade unions, and an employer or an employers' organization is, subject to and for the purposes of this Act, binding upon the council of trade unions and each trade union that was a member of or affiliated with the council of trade unions at the time the agreement was entered into and on whose behalf the council of trade unions bargained with the employer or employers' organization as if it was made between each of such trade unions and the employer or employers' organization, and upon the employees in the bargaining unit defined in the agreement, and, if any such trade union ceases to be a member of or affiliated with the council of trade unions during the term of operation of the agreement, it shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the employer or employers' organization, as the case may be.

R.S.O. 1960,
c. 202, s. 40,
subs. 1,
amended

- 17.** Subsection 1 of section 40 of *The Labour Relations Act* is amended by striking out "two months" in the second line and inserting in lieu thereof "ninety days", so that the subsection shall read as follows:

- (1) Either party to a collective agreement may, within the period of ninety days before the agreement ceases to operate, give notice in writing to the other party of its desire to bargain with a view to the renewal, with or without modifications, of the agreement then in operation or to the making of a new agreement.

Notice of
desire to
bargain
for new
collective
agreement

18. Subsection 3 of section 41a of *The Labour Relations Act*, as enacted by section 14 of *The Labour Relations Amendment Act, 1966*, is repealed.

R.S.O. 1960,
c. 202,
s. 41a
(1966 c. 76,
s. 14),
subs. 3,
repealed

19.—(1) Subsection 4 of section 43 of *The Labour Relations Act* is amended by striking out "of all those eligible to vote" in the second line and inserting in lieu thereof "cast", so that the subsection shall read as follows:

R.S.O. 1960,
c. 202, s. 43,
subs. 4,
amended

- (4) If on the taking of the representation vote more than 50 per cent of the ballots cast are cast in opposition to the trade union, the Board shall declare that the trade union that was certified or that was or is a party to the collective agreement, as the case may be, no longer represents the employees in the bargaining unit.

Declaration
of
termination
following
vote

(2) Subsection 1 does not apply in respect of applications for the termination of bargaining rights made before this section comes into force.

Application
of subs. 1

- (3) Subsection 5 of the said section 43 is repealed.

R.S.O. 1960,
c. 202, s. 43,
subs. 5,
repealed

20.—(1) Subsection 1 of section 45a of *The Labour Relations Act*, as enacted by section 5 of *The Labour Relations Amendment Act, 1964*, is amended by inserting after "agreement" in the fourth line "or a recognition agreement as provided for in subsection 3 of section 13" and by inserting after "operation" in the ninth line "or, if no collective agreement has been entered into within one year from the signing of such recognition agreement", so that the subsection shall read as follows:

R.S.O. 1960,
c. 202
s. 45a
(1964,
c. 53, s. 5),
subs. 1,
amended

- 45a.—(1) Where an employer and a trade union that has not been certified as the bargaining agent for a bargaining unit of employees of the employer enter into a collective agreement, or a recognition agreement as provided for in subsection 3 of section 13, the Board may, upon the application of any employee in the bargaining unit or of a trade union representing

Termination
of bargain-
ing rights
after
voluntary
recognition

any employee in the bargaining unit, during the first year of the period of time that the first collective agreement between them is in operation or, if no collective agreement has been entered into, within one year from the signing of such recognition agreement, declare that the trade union was not, at the time the agreement was entered into, entitled to represent the employees in the bargaining unit.

R.S.O. 1960,
c. 202,
s. 45a
(1964, c. 53,
s. 5),
subs. 4,
re-enacted

(2) Subsection 4 of the said section 45a is repealed and the following substituted therefor:

Declaration
to terminate
agreement

(4) Upon the Board making a declaration under subsection 1, the trade union forthwith ceases to represent the employees in the defined bargaining unit in the recognition agreement or collective agreement and any collective agreement in operation between the trade union and the employer ceases to operate forthwith in respect of the employees affected by the application.

R.S.O. 1960,
c. 202, s. 46,
amended

21. Section 46 of *The Labour Relations Act* is amended by adding thereto the following subsection:

Application
of sub-
sections 1
and 3

(4) Subsections 1 and 3 apply *mutatis mutandis* to an application made under subsection 1b of section 5.

R.S.O. 1960,
c. 202,
s. 47a
(1962-63,
c. 70, s. 1),
re-enacted

22.—(1) Section 47a of *The Labour Relations Act*, as re-enacted by section 1 of *The Labour Relations Amendment Act, 1962-63* and amended by section 18 of *The Labour Relations Amendment Act, 1966*, is repealed and the following substituted therefor:

Interpre-
tation

47a.—(1) In this section,

(a) "business" includes a part or parts thereof;

(b) "sells" includes leases, transfers and any other manner of disposition, and "sold" and "sale" have corresponding meanings.

Successor
employer

(2) Where an employer who is bound by or is a party to a collective agreement with a trade union or council of trade unions sells his business, the person to whom the business has been sold is, until the Board otherwise declares, bound by the collective agreement as if he had been a party thereto and, where an employer sells his business while an application for certification or termination of bargaining rights to which he is a party is before the Board, the person to whom the

business

business has been sold is, until the Board otherwise declares, the employer for the purposes of the application as if he were named as the employer in the application.

- (3) Where an employer on behalf of whose employees a ^{idem} trade union or council of trade unions, as the case may be, has been certified as bargaining agent or has given or is entitled to give notice under section 11, sells his business, the trade union or council of trade unions continues, until the Board otherwise declares, to be the bargaining agent for the employees of the person to whom the business was sold in the like bargaining unit in that business, and the trade union or council of trade unions is entitled to give to the person to whom the business was sold a written notice of its desire to bargain with a view to making a collective agreement and such notice has the same effect as a notice under section 11.

- (4) Where a business was sold to a person and a trade ^{Powers of Board} union or council of trade unions was the bargaining agent of any of the employees in such business or a trade union or council of trade unions is the bargaining agent of the employees in any business carried on by the person to whom the business was sold, and,

(a) any question arises as to what constitutes the like bargaining unit referred to in subsection 3; or

(b) any person, trade union or council of trade unions claims that, by virtue of the operation of subsections 2 or 3, a conflict exists between the bargaining rights of the trade union or council of trade unions that represented the employees of the predecessor employer and the trade union or council of trade unions that represents the employees of the person to whom the business was sold,

the Board may, upon the application of any person, trade union or council of trade unions concerned.

(c) define the composition of the like bargaining unit referred to in subsection 3 with such modification, if any, as the Board deems necessary; and

(d) amend, to such extent as the Board deems necessary, any bargaining unit in any certi-

ificate

ificate issued to any trade union or any bargaining unit defined in any collective agreement.

Idem

- (5) The Board may, upon the application of any person, trade union or council of trade unions concerned, made within sixty days after the successor employer referred to in subsection 2 becomes bound by the collective agreement, or within sixty days after the trade union or council of trade unions has given a notice under subsection 3, terminate the bargaining rights of the trade union or council of trade unions bound by the collective agreement or that has given notice, as the case may be, if, in the opinion of the Board, the person to whom the business was sold has changed its character so that it is substantially different from the business of the predecessor employer.

Idem

- (6) Notwithstanding subsections 2 and 3, where a business was sold to a person who carries on one or more other businesses and a trade union or council of trade unions is the bargaining agent of the employees in any of the businesses and such person intermingles the employees of one of the businesses with those of another of the businesses, the Board may, upon the application of any person, trade union or council of trade unions concerned,

- (a) declare that the person to whom the business was sold is no longer bound by the collective agreement referred to in subsection 2;
- (b) determine whether the employees concerned constitute one or more appropriate bargaining units;
- (c) declare which trade union, trade unions or council of trade unions, if any, shall be the bargaining agent or agents for the employees in such unit or units; and
- (d) amend, to such extent as the Board deems necessary, any certificate issued to any trade union or council of trade unions or any bargaining unit defined in any collective agreement.

Notice to
bargain

- (7) Where a trade union or council of trade unions is declared to be the bargaining agent under subsection

6 and it is not already bound by a collective agreement with the successor employer with respect to the employees for whom it is declared to be the bargaining agent, it is entitled to give to the employer a written notice of its desire to bargain with a view to making a collective agreement, and such notice has the same effect as a notice under section 11.

- (8) Before disposing of any application under this section, the Board may make such inquiry, may require the production of such evidence and the doing of such things, or may hold such representation votes, as it deems appropriate. Powers of Board before disposing of application
- (9) Where an application is made under this section, an employer is not required, notwithstanding that a notice has been given by a trade union or council of trade unions, to bargain with that trade union or council of trade unions concerning the employees to whom the application relates until the Board has disposed of the application and has declared which trade union or council of trade unions, if any, has the right to bargain with the employer on behalf of the employees concerned in the application. Where employer not required to bargain
- (10) For the purposes of sections 5, 43, 45, 46 and 96, a notice given by a trade union or council of trade unions under subsection 3 or a declaration made by the Board under subsection 6 has the same effect as a certification under section 7. Effect of notice or declaration
- (11) Where one or more municipalities as defined in *The Department of Municipal Affairs Act* is erected into another municipality, or two or more such municipalities are amalgamated, united or otherwise joined together, or all or part of one such municipality is annexed, attached or added to another such municipality, the employees of the municipalities concerned shall be deemed to have been intermingled, and,
 - (a) the Board may exercise the like powers as it may exercise under subsections 6 and 8 with respect to the sale of a business under this section;
 - (b) the new or enlarged municipality has the like rights and obligations as a person to whom a business is sold under this section and who intermingles the employees of one of his

businesses with those of another of his businesses; and

- (c) any trade union or council of trade unions concerned has the like rights and obligations as it would have in the case of the intermingling of employees in two or more businesses under this section.

Power of
Board to
determine
whether
sale

- (12) Where, on any application under this section or in any other proceeding before the Board, a question arises as to whether a business has been sold by one employer to another, the Board shall determine the question and its decision thereon is final and conclusive for the purposes of this Act.

Application
of subs. 1

- (2) Subsection 1 does not apply in respect of the sale of a business before the day on which this section comes into force and where a question arises as to whether a business has been sold by one employer to another for the purposes of this subsection, the Board shall determine the question and its decision thereon is final and conclusive.

R.S.O. 1960,
c. 202,
amended

23. *The Labour Relations Act* is amended by adding thereto the following section:

Duty of fair
representa-
tion by
trade union,
etc.

- 51a. A trade union or council of trade unions, so long as it continues to be entitled to represent employees in a bargaining unit, shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees in the unit, whether or not members of the trade union or of any constituent union of the council of trade unions, as the case may be.

R.S.O. 1960,
c. 202, s. 54,
subs. 3,
re-enacted

24. Subsection 3 of section 54 of *The Labour Relations Act* is repealed and the following substituted therefor:

Threatening
strike or
lock-out

- (3) No employee shall threaten an unlawful strike and no employer shall threaten an unlawful lock-out of an employee.

Strike or
ratification
vote to be
secret

- (4) A strike vote or a vote to ratify a proposed collective agreement taken by a trade union shall be by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed.

Opportunity
to vote

- (5) Any vote mentioned in subsection 4 shall be conducted in such a manner that those entitled to vote have ample opportunity to cast their ballots.

25. *The Labour Relations Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 202,
amended

54a.—(1) Where an employee engaging in a lawful strike makes an unconditional application in writing to his employer within six months from the commencement of the lawful strike to return to work, the employer shall, subject to subsection 2, reinstate the employee in his former employment, on such terms as the employer and employee may agree upon, and the employer in offering terms of employment shall not discriminate against the employee by reason of his exercising or having exercised any rights under this Act. Reinstatement of
employee

(2) An employer is not required to reinstate an employee who has made an application to return to work in accordance with subsection 1, Exceptions

(a) where the employer no longer has persons engaged in performing work of the same or similar nature to work which the employee performed prior to his cessation of work; or

(b) where there has been a suspension or discontinuance for cause of an employer's operations, or any part thereof, but if the employer resumes such operations, the employer shall first reinstate those employees who have made an application under subsection 1.

26. Sections 55 and 56 of *The Labour Relations Act* are repealed and the following substituted therefor: R.S.O. 1960,
c. 202,
ss 55, 56,
re-enacted

55. No trade union or council of trade unions shall call or authorize or threaten to call or authorize an unlawful strike and no officer, official or agent of a trade union or council of trade unions shall counsel, procure, support or encourage an unlawful strike or threaten an unlawful strike. Unlawful
strike

56. No employer or employers' organization shall call or authorize or threaten to call or authorize an unlawful lock-out and no officer, official or agent of an employer or employers' organization shall counsel, procure, support or encourage an unlawful lock-out or threaten an unlawful lock-out. Unlawful
lock-out

27. Section 59 of *The Labour Relations Act* is amended by adding thereto the following subsection: R.S.O. 1960,
c. 202, s. 59,
amended

(1a) Where a trade union has applied for certification and notice thereof from the Board has been received Idem

by the employer, no employer shall, except with the consent of the trade union, alter the rights, privileges or duty of the employer or the employees until,

- (a) the trade union has given notice under section 11, in which case subsection 1 applies; or
- (b) the application for certification by the trade union is dismissed or terminated by the Board, or withdrawn by the trade union.

R.S.O. 1960,
c. 202, s. 65,
subs. 1
(1966, c. 76,
s. 24, subs.
1), amended

28.—(1) Subsection 1 of section 65 of *The Labour Relations Act*, as re-enacted by subsection 1 of section 24 of *The Labour Relations Amendment Act, 1966*, is amended by striking out "or" at the end of clause *a*, by adding "or" at the end of clause *b* and by adding thereto the following clause:

- (c) a trade union, council of trade unions, employer, employers' organization, person or persons has acted in any way contrary to section 51*a*, clause *b* of subsection 2 of section 59*a*, subsection 1 or 2 of section 103, or section 104, 105 or 106.

R.S.O. 1960,
c. 202, s. 65,
subs. 4
(1966, c. 76,
s. 24, subs.
2), cl. *a*,
amended

(2) Clause *a* of subsection 4 of the said section 65, as re-enacted by subsection 2 of section 24 of *The Labour Relations Amendment Act, 1966*, is amended by inserting after "benefits" in the sixteenth line "which compensation may be assessed against the employer, other person or trade union jointly or severally", so that the clause shall read as follows:

- (a) if the Board is satisfied that the person concerned has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment by any employer or other person or a trade union, it shall determine what, if anything, the employer, other person or trade union shall do or refrain from doing with respect thereto, and such determination may include the hiring or reinstatement in employment of the person concerned, with or without compensation or compensation in lieu of hiring or reinstatement for loss of earnings and other employment benefits which compensation may be assessed against the employer, other person or trade union jointly or severally, and the employer, other person or trade union shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or any of them by the determination; or

.

(3) Subsection 4 of the said section 65, as re-enacted by ^{R.S.O. 1960,} subsection 2 of section 24 of *The Labour Relations Amendment Act, 1966*, is amended by striking out "or" at the end of clause *a*, by adding "or" at the end of clause *b* and by adding thereto the following clause:

^{c. 202, s. 65,}
^{subs. 4}
^{(1966, c. 76,}
^{s. 24, subs.}
^{1), amended}

- (c) if the Board is satisfied that the trade union, council of trade unions, employer, employers' organization, person or employee concerned has acted contrary to section 51*a*, clause *b* of subsection 2 of section 59*a*, subsection 1 or 2 of section 103 or section 104, 105 or 106, it shall determine what, if anything, the trade union, council of trade unions, employer, employers' organization, person or employee, shall do or refrain from doing with respect thereto, and such determination may include compensation for loss of earnings and other employment benefits and the trade union, council of trade unions, employer, employers' organization, person or employee shall, notwithstanding the provisions of any collective agreement, do or abstain from doing anything required of them or it.

(4) Subsection 5 as re-enacted by subsection 2 of section 8 of *The Labour Relations Amendment Act, 1961-62* and subsection 6 as enacted by subsection 2 of section 8 of *The Labour Relations Amendment Act, 1961-62* of the said section 65 are repealed and the following substituted therefor:

^{R.S.O. 1960,}
^{c. 202, s. 65,}
^{subs. 5, 6}
^{(1961-62,}
^{c. 68, s. 8,}
^{subs. 2),}
^{re-enacted}

- (5) Where the trade union, council of trade unions, employer, employers' organization, person or employee, has failed to comply with any of the terms of the determination, any trade union, council of trade unions, employer, employers' organization, person or employee, affected by the determination may, after the expiration of fourteen days from the date of the release of the determination or the date provided in the determination for compliance, whichever is later, notify the Board in writing of such failure, and thereupon the Board shall file in the office of the Registrar of the Supreme Court a copy of the determination, exclusive of the reasons therefor, if any, in the prescribed form, whereupon the determination shall be entered in the same way as a judgment or order of that court and is enforceable as such.
- ^{Enforcement}
^{of determina-}
^{tion}
- (6) Where the matter complained of has been settled, whether through the endeavours of the field officer or otherwise, and the terms of the settlement have been
- ^{Effect of}
^{settlement}

put in writing and signed by the parties or their representatives, the settlement is binding upon the parties, the trade union, council of trade unions, employer, employers' organization, person or employee who have agreed to the settlement and shall be complied with according to its terms, and a complaint that the trade union, council of trade unions, employer, employers' organization, person or employee who has agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under clause *a*, *b* or *c* of subsection 1, as the case may be.

R.S.O. 1960,
c. 202,
amended

29. *The Labour Relations Act* is amended by adding thereto the following section:

"Person"
defined for
purposes of
ss. 59*a* and
65

65*a*. For the purposes of section 59*a* and any complaint made under section 65, "person" includes any person otherwise excluded by subsection 3 of section 1.

R.S.O. 1960,
c. 202, s. 66
(1966, c. 76,
s. 25),
subs. 1,
amended

30.—(1) Subsection 1 of section 66 of *The Labour Relations Act*, as re-enacted by section 25 of *The Labour Relations Amendment Act, 1966*, is amended by striking out "employees" in the sixth line, the seventh line, the ninth and tenth lines and the eleventh line and inserting in lieu thereof in each instance "persons", and by striking out "employee" in the fifteenth line and inserting in lieu thereof "person", so that the subsection shall read as follows:

Jurisdic-
tional
disputes

(1) The Board may inquire into a complaint that a trade union or council of trade unions, or an officer, official or agent of a trade union or council of trade unions, was or is requiring an employer or an employers' organization to assign particular work to persons in a particular trade union or in a particular trade, craft or class rather than to persons in another trade union or in another trade, craft or class, or that an employer was or is assigning work to persons in a particular trade union rather than to persons in another trade union, and it shall direct what action, if any, the employer, the employers' organization, the trade union or the council of trade unions or any officer, official or agent of any of them or any person shall do or refrain from doing with respect to the assignment of work.

R.S.O. 1960,
c. 202, s. 66
(1966, c. 76,
s. 25),
amended

(2) The said section 66 is amended by adding thereto the following subsection:

Scope of
Board's
direction

(1*a*) The Board may in any direction made under subsection 1 provide that it shall be binding on the

parties

parties for other jobs then in existence or undertaken in the future in such geographic area as the Board may deem advisable.

(3) The said section 66 is further amended by adding thereto the following subsections:

R.S.O. 1960,
c. 202, s. 66
(1966, c. 76,
s. 25),
amended

(1b) Where a trade union, council of trade unions, employer or employers' organization referred to in subsection 1 of section 108 files a complaint under subsection 1 and if each party affected by the complaint has designated a jurisdictional representative as provided under section 108, the Registrar or such other person as may be designated by the chairman shall immediately notify the respective designated jurisdictional representatives by telephone and telegram of the filing of the complaint.

Notice to
jurisdictional
representa-
tives

(1c) The designated jurisdictional representatives involved shall forthwith meet and endeavour to effect a settlement of the matters complained of and shall report the results of their endeavours to the Board within fourteen days from the day of the filing of the complaint.

Meeting of
jurisdictional
representa-
tives

(1d) Where the designated jurisdictional representatives unanimously agree to a settlement of the matter complained of, it shall be reduced to writing, signed by the respective representatives and filed with the Board within the time set by subsection 1c.

Filing of
settlement
with Board

(1e) Where a settlement is filed with the Board under subsection 1d, the Board, after such consultation with the designated jurisdictional representatives as it deems advisable in order to clarify the terms of the settlement, shall embody the settlement and any agreed to changes necessary for its clarification in the form of a direction under subsection 1 and shall file it in the prescribed form in the office of the Registrar of the Supreme Court, whereupon the direction shall be entered in the same way as a judgment or order of that court.

Filing of
settlement
in S.C.O.

(1f) Where the designated jurisdictional representatives are notified under subsection 1b, the Board shall not, except as provided in subsection 2, proceed with the inquiry referred to in subsection 1 until the expiry of the fourteen day period referred to in subsection 1c.

Time of
inquiry

R.S.O. 1960,
c. 202, s. 66
(1966, c. 76,
s. 25),
subs. 7,
amended

(4) Subsection 7 of the said section 66 is amended by striking out "Notwithstanding subsections 1 and 2" in the first line, so that the subsection shall read as follows:

Postpone-
ment of
inquiry

(7) Where a trade union or a council of trade unions and an employer or an employers' organization have made an arrangement to resolve any differences between them arising from the assignment of work, the Board may, upon such terms and conditions as it may fix, postpone inquiring into a complaint under this section until the difference has been dealt with in accordance with such arrangement.

R.S.O. 1960,
c. 202, s. 66
(1966, c. 76,
s. 25),
subs. 8,
amended

(5) Subsection 8 of the said section 66 is amended by striking out "No complaint under this section may be" in the first line and inserting in lieu thereof "The Board shall not inquire into a complaint", so that the subsection shall read as follows:

Where no
complaint
may be
made

(8) The Board shall not inquire into a complaint made by a trade union, council of trade unions, employer or employers' organization that has entered into a collective agreement that contains a provision requiring the reference of any difference between them arising out of work assignment to a tribunal mutually selected by them with respect to any difference as to work assignment that can be resolved under the collective agreement, and such trade union, council of trade unions, employer or employers' organization shall do or abstain from doing anything required of it by the decision of such tribunal.

R.S.O. 1970,
c. 202,
amended

31. *The Labour Relations Act* is amended by adding thereto the following section:

Notice of
claim for
damages
after
unlawful
strike or
lock-out
where no
collective
agreement

68a.—(1) Where the Board declares that a trade union or council of trade unions has called or authorized an unlawful strike or that an employer or employers' organization has called or authorized an unlawful lock-out and no collective agreement is in operation between the trade union or council of trade unions and the employer or employers' organization, as the case may be, the trade union or council of trade unions or employer or employers' organization, may within fifteen days of the release of the Board's declaration, but not thereafter, notify the employer or employers' organization or trade union or council of trade unions, as the case may be, in writing of its intention to claim damages for the unlawful strike or

lock-out, and the notice shall contain the name of its appointee to an arbitration board.

- (2) The recipient of the notice shall within five days ^{Appointment of arbitration board} inform the sender of the notice of the name of its appointee to the arbitration board.
- (3) The two appointees so selected shall, within five ^{Idem} days of the appointment of the second of them, appoint a third person who shall be the chairman.
- (4) If the recipient of the notice fails to name an ap- ^{Idem} pointee, or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Minister upon the request of either party.
- (5) The arbitration board shall hear and determine the ^{Decision of arbitration board} claim for damages including any question as to whether the claim is arbitrable and shall issue a decision and the decision is final and binding upon the parties to the arbitration, and,
 - (a) in the case of a council of trade unions, upon the members of affiliates of the council who are affected by the decision; and
 - (b) in the case of an employers' organization, upon the employers in the organization who are affected by the decision.
- (6) The decision of a majority is the decision of the ^{Idem} arbitration board, but if there is no majority the decision of the chairman governs.
- (7) The chairman and members of the arbitration ^{Remuneration of members of board} board under this section shall be paid remuneration and expenses at the same rate as is payable to a chairman and members of a conciliation board under this Act, and the parties to the arbitration are jointly and severally liable for the payment of such fees and expenses.
- (8) In an arbitration under this section, subsections 5, ^{Procedure of board} 6, 7, 9 and 10 of section 34 apply *mutatis mutandis*.

32. Clauses *a* and *b* of subsection 1 of section 69 of *The R.S.O. 1960, c. 202, s. 69, subs. 1, cls. a, b, re-enacted* *Labour Relations Act* are repealed and the following substituted therefor:

- (a) if an individual, to a fine of not more than \$1,000; or

(b)

- (b) if a corporation, trade union, council of trade unions or employers' organization, to a fine of not more than \$10,000.

R.S.O. 1960,
c. 202, s. 73
(1966, c. 76,
s. 26),
amended

33. Section 73 of *The Labour Relations Act*, as re-enacted by section 26 of *The Labour Relations Amendment Act, 1966*, is amended by inserting after "66" in the fifth line "or a direction of the Board under section 107", and by inserting after "board" in the sixth line "including a decision under section 68a", so that the section shall read as follows:

Proceedings
in S.C.O.

73. Where a trade union, a council of trade unions or an unincorporated employers' organization is affected by a determination of the Board under section 65, an interim order or direction of the Board under section 66 or a direction of the Board under section 107 or a decision of an arbitrator or arbitration board including a decision under section 68a, proceedings to enforce the determination, interim order, direction or decision may be instituted in the Supreme Court by or against such union, council or organization in the name of the union, council or organization, as the case may be.

R.S.O. 1960,
c. 202, s. 75,
subs. 3a
(1961-62,
c. 68, s. 10,
subs. 1),
amended

34.—(1) Subsection 3a of section 75 of *The Labour Relations Act*, as enacted by subsection 1 of section 10 of *The Labour Relations Amendment Act, 1961-62*, is amended by striking out "96" in the fifth line and inserting in lieu thereof "108", so that the subsection shall read as follows:

Construction
industry
division

- (3a) One of the divisions of the Board shall be designated by the chairman as the construction industry division, and it shall exercise the powers of the Board under this Act in proceedings to which sections 90 to 108 apply, but nothing in this subsection impairs the authority of any other division to exercise such powers.

R.S.O. 1960,
c. 202, s. 75,
amended

(2) The said section 75 is amended by adding thereto the following subsection:

Resignation
of member

- (4a) Where a member of the Board resigns, he may carry out and complete any duties or responsibilities and exercise any powers that he would have had if he had not ceased to be a member, in connection with any matter in respect of which there was any proceeding in which he participated as a member of the Board.

R.S.O. 1960,
c. 202, s. 75,
subs. 8,
re-enacted

(3) Subsection 8 of the said section 75 is repealed and the following substituted therefor:

- (8) The decision of the majority of the members of the Board present and constituting a quorum is the decision of the Board, but, if there is no majority, the decision of the chairman or vice-chairman governs. Decisions

(4) Subsection 9a of the said section 75, as enacted by subsection 3 of section 19 of *The Labour Relations Amendment Act, 1961-62* and amended by section 9 of *The Labour Relations Amendment Act, 1964*, is further amended by striking out "96" in the third line and inserting in lieu thereof "108", so that the subsection shall read as follows:

- (9a) The Board may, subject to the approval of the Lieutenant Governor in Council, make rules to expedite proceedings before the Board to which sections 90 to 108 apply, and such rules may provide that, for the purposes of determining the merits of an application for certification to which sections 90 to 92 apply, the Board shall make or cause to be made such examination of records and such other inquiries as it deems necessary, but the Board need not hold a hearing on such an application. Rules applicable to construction industry

35.—(1) Subsection 2 of section 77 of *The Labour Relations Act* is amended by adding thereto the following clause: R.S.O. 1960, c. 202, s. 77, subs. 2, amended

- (k) to determine the form in which and the time as of which evidence of representation by an employers' organization or of objection by employers to accreditation of an employers' organization or of signification by employers that they no longer wish to be represented by an employers' organization shall be presented to the Board in an application for accreditation or for a declaration terminating bargaining rights of an employers' organization and to refuse to accept any evidence of representation or objection or signification that is not presented in the form and as of the time so determined.

(2) The said section 77 is amended by adding thereto the following subsections: R.S.O. 1960, c. 202, s. 77, amended

- (5) Where the Board determines that a representation vote is to be taken amongst the employees in a bargaining unit or voting constituency, the Board may hold such additional representation votes as it considers necessary to determine the true wishes of the employees. Additional votes

- (6) Where, in the taking of a representation vote, the Board determines that the employees are to be given a choice between two or more trade unions, Idem

- (a) the Board may include on a ballot a choice indicating that an employee does not wish to be represented by a trade union; and
- (b) the Board, when it decides to hold such additional representation votes as may be necessary, may eliminate from the choice on the ballot the choice from the previous ballot that has obtained the lowest number of votes cast.

R.S.O. 1960,
c. 202, s. 79a,
subs. 2
(1966, c. 76,
s. 33),
amended

36. Subsection 2 of section 79a of *The Labour Relations Act*, as enacted by section 33 of *The Labour Relations Amendment Act, 1966*, is amended by striking out "10" in the fifth line and inserting in lieu thereof "11".

R.S.O. 1960,
c. 202, s. 85,
subs. 2,
re-enacted

37.—(1) Subsection 2 of section 85 of *The Labour Relations Act* is repealed and the following substituted therefor:

Time of
making
certain
applications

- (2) An application for certification or accreditation or for a declaration that a trade union or employers' organization no longer represents the employees or employers, as the case may be, in a bargaining unit, if sent by registered mail addressed to the Board at Toronto, shall be deemed to have been made on the date on which it was so mailed.

R.S.O. 1960,
c. 202, s. 85,
subs. 4
(1966, c. 76,
s. 35),
amended

(2) Subsection 4 of the said section 85, as enacted by section 35 of *The Labour Relations Amendment Act, 1966*, is amended by inserting after "66" in the fourth line "or a direction of the Board under section 107" and by inserting after "board" in the fifth line "including a decision under section 68a", so that the subsection shall read as follows:

Failure
to receive
documents
a defence

- (4) Proof by a person, employers' organization, trade union or council of trade unions of failure to receive a determination under section 65 or an interim order or direction under section 66 or a direction of the Board under section 107, or a decision of an arbitrator or of an arbitration board including a decision under section 68a sent by mail to such person, employers' organization, trade union or council of trade unions addressed to him or it at his or its last-known address is a defence by such person, employers' organization, trade union or council of trade unions to an application for consent to institute a prosecution or to any proceedings to enforce as a judgment or order of the Supreme Court such determination, interim order, direction or decision.

R.S.O. 1960,
c. 202, s. 88,
cl. f,
amended

38. Clause f of section 88 of *The Labour Relations Act* is amended by striking out "and 66" in the third line and insert-

ing in lieu thereof "66, 68*a* and 107", so that the clause shall read as follows:

- (f) prescribing forms and providing for their use, including the form in which the documents mentioned in sections 34, 65, 66, 68*a* and 107 shall be filed in the Supreme Court.

39. Section 90 of *The Labour Relations Act*, as enacted by R.S.O. 1960, c. 202, s. 90 section 16 of *The Labour Relations Amendment Act, 1961-62*, (1961-62, c. 68, s. 16), is repealed and the following substituted therefor: re-enacted

90. In this section and in sections 91 to 108,

Interpreta-
tion

- (a) "council of trade unions" means a council that is formed for the purpose of representing or that according to established bargaining practice represents trade unions as defined in clause f;
- (b) "employee" includes an employee engaged in whole or in part in off-site work but who is commonly associated in his work or bargaining with on-site employees.
- (c) "employer" means a person who operates a business in the construction industry, and for purposes of an application for accreditation means an employer for whose employees a trade union or council of trade unions affected by the application has bargaining rights in a particular geographic area and sector or areas or sectors or parts thereof;
- (d) "employers' organization" means an organization that is formed for the purpose of representing or represents employers as defined in clause c;
- (e) "sector" means a division of the construction industry as determined by work characteristics and includes the industrial, commercial and institutional sector, the residential sector, the sewers, tunnels and watermains sector, the roads sector, the heavy engineering sector, the pipeline sector and the electrical power systems sector;
- (f) "trade union" means a trade union that according to established trade union practice pertains to the construction industry.

R.S.O. 1960,
c. 202, s. 91
(1961-62,
c. 68, s. 16),
amended

40. Section 91 of *The Labour Relations Act*, as enacted by section 16 of *The Labour Relations Amendment Act, 1961-62* and amended by section 38 of *The Labour Relations Amendment Act, 1966*, is further amended by striking out "96" in the second line and in the third line and inserting in lieu thereof in each instance "108", so that the section shall read as follows:

Conflict

91. Where there is conflict between any provision in sections 92 to 108 and any provision in sections 5 to 43 and 47 to 88, the provisions in sections 92 to 108 prevail.

R.S.O. 1960,
c. 202,
amended

41. *The Labour Relations Act* is amended by adding thereto the following sections:

Accredita-
tion of
employers'
organization

97. Where a trade union or council of trade unions has been certified or has been granted voluntary recognition under section 13 as the bargaining agent for a unit of employees of more than one employer in the construction industry or where a trade union or council of trade unions has entered into collective agreements with more than one employer covering a unit of employees in the construction industry, an employers' organization may apply to the Board to be accredited as the bargaining agent for all employers in a particular sector of the industry and in the geographic area described in the said certificates, voluntary recognition documents or collective agreements, as the case may be.

Board to
determine
appropriate-
ness of unit

98.—(1) Upon an application for accreditation, the Board shall determine the unit of employers that is appropriate for collective bargaining in a particular geographic area and sector, but the Board need not confine the unit to one geographic area or sector but may, if it considers it advisable, combine areas or sectors or both or parts thereof.

Idem

(2) The unit of employers shall comprise all employers as defined in clause *c* of section 90 in the geographic area and sector determined by the Board to be appropriate.

Determi-
nations by
Board

99.—(1) Upon an application for accreditation the Board shall ascertain,

(a) the number of employers in the unit of employers on the date of the making of the application who have within one year prior to such date had employees in their employ

for whom the trade union or council of trade unions has bargaining rights in the geographic area and sector determined by the Board to be appropriate;

- (b) the number of employers in clause *a* represented by the employers' organization on the date of the making of the application; and
- (c) the number of employees of employers in clause *a* on the payroll of each such employer for the weekly payroll period immediately preceding the date of the application or if, in the opinion of the Board, such payroll period is unsatisfactory for any one or more of the employers in clause *a*, such other weekly payroll period for any one or more of the said employers as the Board considers advisable.

(2) If the Board is satisfied,

Accredita-
tion

- (a) that a majority of the employers in clause *a* of subsection 1 are represented by the employers' organization; and
- (b) that such majority of employers employed a majority of the employees in clause *c* of subsection 1,

the Board, subject to subsection 3, shall accredit the employers' organization as the bargaining agent of the employers in the unit of employers and for such other employers for whose employees the trade union or council of trade unions may, after the date of the making of the application, obtain bargaining rights through certification or voluntary recognition in the appropriate geographic area and sector.

- (3) Before accrediting an employers' organization under subsection 2, the Board shall satisfy itself that the employers' organization is a properly constituted organization and that each of the employers whom it represents has vested appropriate authority in the organization to enable it to discharge the responsibilities of an accredited bargaining agent. Authority
of employers'
organization
- (4) Where the Board is of the opinion that appropriate ^{idem} authority has not been vested in the employers' organization, the Board may postpone disposition of the application to enable employers represented by the organization to vest such additional or other authority in the organization as the Board considers necessary.

What
employers'
organization
not to be
accredited

- (5) The Board shall not accredit any employers' organization if any trade union or council of trade unions has participated in its formation or administration or has contributed financial or other support to it or if it discriminates against any person because of his race, creed, colour, nationality, ancestry or place of origin.

Effect of
accreditation

- 100.—(1) Upon accreditation, all rights, duties and obligations under this Act of employers for whom the accredited employers' organization is or becomes the bargaining agent apply *mutatis mutandis* to the accredited employers' organization.

Effect of
accreditation
on collective
agreements

- (2) Upon accreditation, any collective agreement in operation between the trade union or council of trade unions and any employer in clause *a* of subsection 1 of section 99 is binding on the parties thereto only for the remainder of the term of operation of the agreement, regardless of any provision therein respecting its renewal.

Idem

- (3) When any collective agreement mentioned in subsection 2 ceases to operate, the employer shall thereupon be bound by any collective agreement then in existence between the trade union or council of trade unions and the accredited employers' organization or subsequently entered into by the said parties.

Idem

- (4) Where, after the date of the making of an application for accreditation, the trade union or council of trade unions obtains bargaining rights for the employees of an employer through certification or voluntary recognition, that employer is bound by any collective agreement in existence at the time of the certification or voluntary recognition between the trade union or council of trade unions and the applicant employers' organization or subsequently entered into by the said parties.

Idem

- (5) A collective agreement between a trade union or council of trade unions and an employer who, but for the one-year requirement, would have been included in clause *a* of subsection 1 of section 99 is binding on the parties thereto only for the remainder of the term of operation of the agreement regardless of any provisions therein respecting its renewal.

- (6) When any collective agreement mentioned in subsection 5 ceases to operate, the employer shall thereupon be bound by any collective agreement then in existence between the trade union or council of trade unions and the accredited employers' organization or subsequently entered into by the said parties. ^{Idem}
- (7) Where, under the provisions of this section, an employer becomes bound by a collective agreement between a trade union or council of trade unions and an accredited employers' organization after the said agreement has commenced to operate, the agreement ceases to be binding on the employer in accordance with the terms thereof, notwithstanding subsection 1 of section 39. ^{Application of s. 39, subs. 1}
- 101.—(1) Subsections 1 and 2 of section 38 do not apply to an accredited employers' organization. ^{Application of s. 38, subs. 1, 2}
- (2) A collective agreement between an accredited employers' organization and a trade union or council of trade unions is, subject to and for the purposes of this Act, binding upon the accredited employers, organization and the trade union or council of trade unions, as the case may be, and upon each employer in the unit of employers represented by the accredited employers' organization at the time the agreement was entered into and upon such other employers as may subsequently be bound by the said agreement, as if it was made between each of such employers and the trade union or council of trade unions and, if any such employer ceases to be represented by the accredited employers' organization during the term of operation of the agreement, the employer shall, for the remainder of the term of operation of the agreement, be deemed to be a party to a like agreement with the trade union or council of trade unions. ^{Binding effect of collective agreement on employer}
- (3) A collective agreement between an accredited employers' organization and a trade union or council of trade unions is binding on the employees in the bargaining unit defined in the agreement of any employer bound by the collective agreement. ^{Binding effect of collective agreement on employees}
- 102.—(1) If an accredited employers' organization does not make a collective agreement with the trade union or council of trade unions, as the case may be, within one year after its accreditation, any of the employers in the unit of employers determined in the ^{Termination of accreditation}

accreditation certificate may apply to the Board only during the two months following the said one year for a declaration that the accredited employers' organization no longer represents the employers in the unit of employers.

Idem

- (2) Any of the employers in the unit of employers defined in a collective agreement between an accredited employers' organization and a trade union or council of trade unions, as the case may be, may apply to the Board only during the last two months of its operation for a declaration that the accredited employers' organization no longer represents the employers in the unit of employers.

Deter-
mination by
Board

- (3) Upon an application under subsection 1 or 2, the Board shall ascertain,

(a) the number of employers in the unit of employers on the date of the making of the application;

(b) the number of employers in the unit of employers who, within the two-month period immediately preceding the date of the making of the application, have voluntarily signified in writing that they no longer wish to be represented by the accredited employers' organization; and

(c) the number of employees affected by the application of employers in the unit of employers on the payroll of each such employer for the weekly payroll period immediately preceding the date of the making of the application or if, in the opinion of the Board, such payroll period is unsatisfactory for any one or more of the employers in clause a, such other weekly payroll period for any one or more of the said employers as the Board considers advisable.

Declaration
by Board

- (4) If the Board is satisfied,

(a) that a majority of the employers in clause a of subsection 3 has voluntarily signified in writing that they no longer wish to be represented by the accredited employers' organization; and

(b)

- (b) that such majority of employers employed a majority of the employees in clause c of subsection 3,

the Board shall declare that the employers' organization that was accredited or that was or is a party to the collective agreement, as the case may be, no longer represents the employers in the unit of employers.

- (5) Upon an application under subsections 1 or 2, when the employers' organization informs the Board that it does not desire to continue to represent the employers in the unit of employers, the Board may declare that the employers' organization no longer represents the employers in the unit. Declaration of termination on abandonment

- (6) Upon the Board making a declaration under subsection 4 or 5, Effect of declaration

- (a) any collective agreement in operation between the trade union or council of trade unions and the employers' organization that is binding upon the employers in the unit of employers ceases to operate forthwith;

- (b) all rights, duties and obligations under this Act of the employers' organization revert *mutatis mutandis* to the individual employers represented by the employers' organization; and

- (c) the trade union or council of trade unions, as the case may be, is entitled to give to any employer in the unit of employers a written notice of its desire to bargain with a view to making a collective agreement, and such notice has the same effect as a notice under section 11.

- 103.—(1) No trade union or council of trade unions that has bargaining rights for employees of employers represented by an accredited employers' organization and no such employer or person acting on behalf of such employer, trade union or council of trade unions shall, so long as the accredited employers' organization continues to be entitled to represent the employers in a unit of employers, bargain with each other with respect to such employees or enter Individual bargaining prohibited

into a collective agreement designed or intended to be binding upon such employees and if any such agreement is entered into it is void.

Agreements
to provide
employees
during
lawful strike
or lock-out
prohibited

- (2) No trade union or council of trade unions that has bargaining rights for employees of employers represented by an accredited employers' organization and no such employer or person acting on behalf of the employer, trade union or council of trade unions shall, so long as the accredited employers' organization continues to be entitled to represent the employers in a unit of employers, enter into any agreement or understanding, oral or written, that provides for the supply of employees during a legal strike or lock-out, and if any such agreement or understanding is entered into it is void and no such trade union or council of trade unions or person shall supply such employees to the employer.

Saving

- (3) Nothing in this Act prohibits an employer, represented by an accredited employers' organization, from continuing or attempting to continue his operations during a strike or lock-out involving employees of employers represented by the accredited employers' organization.

Duty of
fair repre-
sentation by
employers'
organization

104. An accredited employers' organization, so long as it continues to be entitled to represent employers in a unit of employers, shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employers in the unit, whether members of the accredited employers' organization or not.

Membership
in em-
ployers'
organization

105. Membership in an accredited employers' organization shall not be denied or terminated except for cause which, in the opinion of the Board, is fair and reasonable.

Fees

106. An accredited employers' organization shall not charge, levy or prescribe initiation fees, dues or assessments that, in the opinion of the Board, are unreasonable or discriminatory.

Direction by
Board re
unlawful
strike

- 107.—(1) Where on the complaint of an interested person, trade union, council of trade unions or employers' organization the Board is satisfied that a trade union or council of trade unions called or authorized or threatened to call or authorize an unlawful strike or that an officer, official or agent of a trade union or council of trade unions counselled or procured or supported or encouraged an unlawful

strike

strike or threatened an unlawful strike, or that employees engaged in or threatened to engage in an unlawful strike, it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or the threat of an unlawful strike.

- (2) Where on the complaint of an interested person, trade union, council of trade unions or employers' organization the Board is satisfied that an employer or employers' organization called or authorized or threatened to call or authorize an unlawful lock-out or locked out or threatened to lock out employees or that an officer, official or agent of an employer or employers' organization counselled or procured or supported or encouraged an unlawful lock-out or threatened an unlawful lock-out, it may direct what action if any a person, employee, employer, employers' organization, trade union or council of trade unions and their officers, officials or agents shall do or refrain from doing with respect to the unlawful lock-out or the threat of an unlawful lock-out.

Direction by
Board re
unlawful
lock-out

- (3) The Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under this section, exclusive of the reasons therefor, in the prescribed form, whereupon the direction shall be entered in the same way as a judgment or order of that court.

Enforcement
of direction
by S.C.O.

- 108.—(1) Every trade union, council of trade unions, employer and employers' organization in the construction industry shall, on or before the 1st day of April, 1971, or within fifteen days after it has entered into a collective agreement, whichever is later, file with the Board a notice in the prescribed form giving the name and address of a person resident in Ontario who is authorized by the trade union, council of trade unions, employer or employers' organization to act as a designated jurisdictional representative in the event of a dispute as to the assignment of work.

Designation
of
jurisdictional
representa-
tive

- (2) Whenever a trade union, council of trade unions, employer or employers' organization changes the authorization referred to in subsection 1, it shall file with the Board notice thereof in the prescribed form within fifteen days after making such change.

Idem

- Idem (3) Where a trade union, council of trade unions, employer or employers' organization files a complaint under subsection 1 of section 66 and it has not complied with subsection 1 or 2, it shall file the required notice with the complaint.
- Commence-
ment **42.**—(1) This Act, except section 15 and subsection 3 of section 30, comes into force on a day to be named by the Lieutenant Governor by his proclamation.
- Idem (2) Section 15 comes into force on the 1st day of July, 1972.
- Idem (3) Subsection 3 of section 30 comes into force on the 1st day of April, 1971.
- Short title **43.** This Act may be cited as *The Labour Relations Amendment Act, 1970 (No. 2)*.